

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

JESUS SORIA,
Plaintiff

v.

MAG-T, L.P. D/B/A CHARLES MAUND
TOYOTA,
Defendant

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CIVIL ACTION 1:14-CV-308

DEFENDANT'S MOTION TO COMPEL PRODUCTION

MAG-T, L.P. D/B/A CHARLES MAUND TOYOTA ("Maund"), Defendant and Movant herein, submits this its Motion to Compel Discovery and would show:

1. Plaintiff Soria filed this suit April 8, 2014 alleging numerous claims and causes of action against Defendant Maund. One of the principal injuries and element of damages that Plaintiff Soria claims is damage and injury to Plaintiff Soria's credit (see Plaintiff's First Amended Complaint ¶76; see also Soria's response to Defendant's Interrogatory no. 12 – exh. A hereto).
2. Plaintiff had bad credit prior to the transaction with Defendant Maund which is the subject of this lawsuit, and irrespective of Defendant Maund's alleged actions (see Soria's deposition p. 22/line 8 – p. 24/line 3 – exh. B hereto). Soria testified in his August 13, 2014 deposition that he didn't know – and he had made no effort to find out – if his current credit score was better or worse now compared to October 2013 (Soria deposition p. 23/line 20 – p. 24/line 3).
3. One of Maund's principal defenses in this case is that Maund's actions did not do any damage to Soria's credit rating or standing. In order to prove that: i) Soria's credit rating and scoring is not any worse now than it was prior to the Maund transaction, or because of anything

that Maund did in January 2014; and ii) Soria's current credit score is attributable to non-Maund causes, Maund has sought discovery of Soria's current credit rating, credit report, and credit score. Specifically, Maund propounded Defendant's Request for Production nos. 16 and 17 to Soria. On October 2, 2014 Soria submitted the following responses and objections to Defendant's request for production number 16 and 17:

16. *A copy of current credit report and credit scoring.*

RESPONSE: *Plaintiff is producing his January 2014 credit report from Equifax and Experian which is attached hereto and Bates numbered JS000190 - JS000197.*

17. *An executed authorization authorizing Defendant to request and obtain Plaintiff's current credit report scoring.*

RESPONSE: *Objection. Defendant has no authorized reason to perform a credit pull and therefore, Plaintiff has no document responsive to this request (Plaintiff's objection to Defendant's 5th Request for Production – exh. C hereto).*


4. In sum, Plaintiff Soria refuses to provide any credit report or credit scoring after January 2014. Soria's refusal to provide current credit report or credit scoring or any information after January 2014 prevents Defendant Maund from developing the evidence necessary to refute Plaintiff's claims that Defendant Maund's actions have damaged or injured Soria's credit rating.

5. Defendant Maund seeks orders requiring Plaintiff Soria to either produce a current report and credit scoring or to provide an executed authorization authorizing Defendant Maund to request and obtain Plaintiff Soria's current credit report scoring.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that the Court order Plaintiff to respond as set forth herein. Defendant prays for other and further relief.

Respectfully submitted,


Brian W. Bishop
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Austin, Texas 78701
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By: 

Brian W. Bishop
State Bar No. 02346300
Attorney for Defendant

CERTIFICATE OF CONFERENCE

My name is Brian W. Bishop and I am attorney of record for MAG-T, L.P. d/b/a Charles Maund Toyota. I have conferenced with Amy Kleinpeter – attorney for Plaintiff – regarding the matters which are subject of the foregoing Motion to Compel. We have not been able to resolve this matter by agreement.




Brian W. Bishop

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was forwarded electronically on this the 24 day of October, 2014, to the following parties:

Amy E. Clark Kleinpeter
Hill Country Consumer Law
11940 Jollyville Road
Suite 2020-S
Austin, Texas 78759



Brian W. Bishop

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ORDER ON DEFENDANT'S MOTION TO COMPEL PRODUCTION

On the ____ day of October 2014, came on to be heard Defendant's Motion to Compel Production.

The Court, having reviewed and considered Defendant's Motion to Compel Production, finds that Defendant's Motion should be and hereby is GRANTED.

It is therefore ORDERED that Plaintiff shall within ten (10) days either produce a current report and credit scoring or provide Defendant with an executed authorization authorizing Defendant to request and obtain Plaintiff's current credit report scoring.

Signed and entered this ____ day of October 2014.

JUDGE PRESIDING